UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PHILLIP CROFT,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. 4:04CV01676 ERW
	)	
MIKE KEMNA,[1]	)	
	)	
Respondent.	)	

MEMORANDUM AND ORDER

This matter is before the Court upon the Report and Recommendation of United States Magistrate Frederick R. Buckles [doc. #9] pursuant to 28 U.S.C. § 636(b). The Court notes that no objections were filed to the Report and Recommendation. After consideration of the issues, the Court hereby sustains, adopts, and incorporates herein the Magistrate's Report and Recommendation.

In addition, a certificate of appealability may only be issued when "the applicant has made a substantial showing of the denial of a constitutional right." *See Slack v. McDaniel*, 529 U.S. 473, 473 (2000); *see also Langley v. Norris*, 465 F.3d 861, 863 (8th Cir. 2006). Petitioner has made no such showing. Furthermore, the Court does not believe that reasonable jurists might find the Court's decision debatable or wrong, for purposes of issuing a certificate of appealability under

[1] When the pending Petition was filed, Mike Kemna was the Superintendent of the Crossroads Correctional Center (CCC), however, Larry Denney is presently the Superintendent of CCC and he is hereby substituted for Mike Kemna as the proper respondent. *See* Rule 2(a), Rules Governing Section 2254 Cases in the United States District Courts. Also, Petitioner is challenging sentences to be served in the future, and Missouri Attorney General Jeremiah W. "Jay" Nixon is hereby added as proper party respondent. *See id.*

28 U.S.C. § 2253(c)(1)(A). *Slack*, 529 U.S. at 483-84. Therefore, the Court shall not issue a certificate of appealability as to any claim raised in the Petition.

Accordingly,

IT IS HEREBY ORDERED that Petitioner Phillip Croft's Petition for Writ of Habeas Corpus [doc. #1] is **DENIED**.

IT IS FURTHER ORDERED that a Certificate of Appealability is **DENIED**.

Dated this 16th Day of January, 2008.

E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE